

MEETING MINUTES

Board of Mental Health Practice

July 8, 2005

1. ROLL CALL

The meeting of the Board in Mental Health Practice was called to order by the Chairperson, Nancy Myers at 9:05 A.M., in Sixth Floor Conference Room Z, State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members, and other interested parties in accordance with the Open Meetings Law. The following members answered the roll call:

Members Present:	John Danforth	-	Member
	Mike Kenney	-	Member
	Gail Lorenzen	-	Member
	Monalisa McGee-Snyder	-	Member
	Susan Meyerle	-	Vice-Chairperson
	Nancy Myers	-	Member
	M. Thomas Perkins	-	Member
	Layne Prest	-	Member

Members Absent:	Amanda Randall	-	Chairperson
	John Atherton	-	Secretary

Staff Present:	George Pflager	-	Investigations & Enforcement Division
	Barb Remmers	-	Investigations & Enforcement Division
	Brad Shaff	-	Assistant Attorney General
	Ruth Schuldt	-	Compliance Monitor

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

➡**MOTION:** Kenney moved, seconded by Perkins to adopt the agenda. A roll call vote was taken. Voting aye: Danforth, Kenney, Lorenzen, McGee-Snyder, Meyerle, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Atherton, Randall (2). Motion carried.

3. APPROVAL OF 2004-2005 MINUTES

The board reviewed and discussed the minutes from 2004-2005

4. INVESTIGATIVE REPORTS – CLOSED SESSION

➡**MOTION:** Perkins moved, seconded by Meyerle to enter into closed session at 9:08 A.M. to hear discussions of a confidential nature for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Danforth, Kenney, Lorenzen, McGee-Snyder, Meyerle, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Atherton, Randall (2). Motion carried.

9:09 A.M.	-	Schuldt departed the meeting
9:10 A.M.	-	Perkins declared a conflict of interest and departed the meeting
9:10 A.M.	-	Atherton joined the meeting
9:27 A.M.	-	Perkins re-joined the meeting
9:37 A.M.	-	Myers declared a conflict of interest and departed the meeting
9:55 A.M.	-	Remmers departed the meeting
9:58 A.M.	-	Meyerle declared a conflict of interest and departed the meeting
9:59 A.M.	-	Myers re-entered the meeting

10:02 A.M. - Remmers re-entered the meeting
 10:30 A.M. - The Board took a break in closed session
 10:31 A.M. - Meyerle re-entered the meeting the meeting
 10:40 A.M. - Board resumed the meeting in closed session
 11:08 A.M. - Atherton departed the meeting
 11:13 A.M. - Perkins declared a conflict and departed the meeting
 11:14 A.M. - Atherton re-entered the meeting
 11:27 A.M. - Perkins re-entered the meeting
 11:49 A.M. - Meyerle left the meeting

5. DISCIPLINARY INFORMATION – OPEN SESSION

➡**MOTION:** Kenney moved, seconded by Perkins to enter into open session at 12:00 Noon A roll call vote was taken. Voting aye: Atherton, Danforth, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Meyerle, Randall (2). Motion carried.

12:00 Noon - Members of the public joined the meeting in open session
 Board took a break
 12:05 P.M. - Members of the public departed the meeting

➡**MOTION:** Perkins moved, seconded by McGee-Snyder to enter into closed session at 12:05 P.M. to hear discussions of a confidential nature for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Atherton, Danforth, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Meyerle, Randall (2). Motion carried.

12:15 P.M. - Pflager re-joined meeting after break

➡**MOTION:** Perkins moved, seconded by Myers to enter into open session at 12:16 P.M. A roll call vote was taken. Voting aye: Atherton, Danforth, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Meyerle, Randall (2). Motion carried.

12:16 P.M. - Kevin Kominski, representative of Nebraska Counseling Association and other member of the public joined the meeting.

12:19 P.M. - Member of the public left the meeting

a. Actions Pending/Taken UPDATE INFO IF “NONE” INCORRECT – SCHAFF LEAVING IS CURRENT

None

12:24 P.M. - Schaff departed the meeting

6. UPDATES UPDATE INFO HERE

a. 407 Review – Expanded Scope of Practice

Bixler presented the board with (non-official) copies of what's been tentatively approved by the Licensing Committee for the Board of Health. These copies represent the draft changes as requested by the committee. This is not expected to be the final proposal. With this proposal would come the creation of a new level of mental health practitioner, a “Licensed Independent Mental Health Practitioner”. This new level of credential would allow for independent diagnosis of major mental disorders. Persons, who graduate from an accredited professional program, can apply for licensure as an Independent Mental Health Practitioner. Supervision requirements would include that the applicant must complete 50 percent of their client contact hours within the 3,000 hours of supervised experience with clients who have been

diagnosed under the major mental disease category. Supervision must be provided by a qualified Physician, Licensed Psychologist or Licensed Independent Mental Health Practitioner. Applicants who have completed the required experience in client contact hours can be licensed at that level.

In addition, persons who graduate from a non-accredited professional program, can apply for licensure as an Independent Mental Health Practitioner, upon completion of 7,000 hours of supervised practice, over a minimum period of 10 years, including again that a minimum of 50 percent of their client contact hours be with clients who have been diagnosed under the major mental disease category. Supervision must be provided by a qualified Physician, Licensed Psychologist or Licensed Independent Mental Health Practitioner.

She went on to explain that there would be a grandfathering process for those already licensed who wish to move their credential to this new level. The wording includes that the licensing board shall accept reasonable documentation of the required experience of contact hours. Documentation may include sworn statements from employers or supervisors as well as the applicant.

Bixler stated that the applicant would have to very clearly determine from the on-set whether or not, they will be seeking licensure at the independent level because of the stringent supervision required.

Randall indicated that this seems to have an impact on social workers in Nebraska in that it appears to separate them further from mental health practitioners.

Chiles clarified that the current licensing requirements for mental health practitioners is not being changed. There is simply an additional level of licensure being offered.

b. Clinical Records Management Continuing Education Program UPDATE INFO HERE

Perkins advised that he and Shaff have been presenting on Clinical Records Management: A Matter of Ethics, as a Continuing Education Program which is being offered throughout the State of Nebraska in five separate sessions during 2005. Perkins stated that there has been tremendous response to these sessions. Chiles presented a copy of comments collected from participants at the last program presentation, which included many positive comments. Chiles did reiterate that if any board member still wishes to register for the Lincoln program on November 5, 2005, she would be able to accommodate them, but otherwise only the Scottsbluff location has space available.

As a result of the questions being asked at these programs, Perkins suggested the Board might want to consider possible changes in regulations. For example, the Mental Health Practice Regulations indicate that "Unprofessional Conduct" includes the failure to keep and maintain adequate records of treatment of service. Perkins stated that while state regulations, hold clinicians to two standards (state regulations and professional association code of conduct), he has been unable to locate clearly delineated standards for clinical records. In his research, the Professional Counselors Association comes closest to describing what constitutes adequate record keeping. It is possible that there are clinicians who do not belong to any professional association, therefore, are being held accountable to only the state standard. HIPPA has now given therapy notes federal protection and he suggested that both Legal Counsel and Investigations review the HIPPA Regulations to assist when issuing subpoenas.

Pflager interjected that on the subpoenas they use, there is a short paragraph which basically states that HIPPA does not apply to a state investigation, because nothing about an investigation is discoverable. He clarified that the exception would be if the State Attorney General has to bring forth enough information to make a case in a hearing, something could come out about that, but again, nothing is discoverable.

Perkins went on the state that neither State Statute or Regulation address the issue of records retention. He stated that HIPPA sets the standard at five (5) years. One of the things that is in place, pertains to people in residential programs and states that for minors in residential programs, the records must be retained for a period of five (5) years after they have reached the age of majority. However, there is nothing for persons in private practice. He also stated that there is no clear understanding of what constitutes "age of majority". If you are 21 years of age or under, you may not be able to drink but on the other side of that at 18 years of age, you can vote. There needs to be some clearly set definitions regarding record retention as well as disposal of records.

c. Other**7. APPLICATION REVIEWS AND ISSUES****a. Applications**Amber EldredgeDaniel Bosiljevac

The board will delay review and determination on these applications until a later date. A telephone conference call will be scheduled to deal with these, due to the early departure of several members of the board at today's meeting, thus the loss of a quorum to review, discuss and vote on these applications.

b. Convictions♦ **Tammi Luella Diediker**

Application category:	Conviction:	Conditions:
PLMHP	DUI; Court Date-12/22/2003 Wayne County, NE	Fine - \$400.00 + Court costs License impounded – 60 days
	Theft; Court Date-12/22/2003 Wayne County, NE	Court costs One year Probation

➡**MOTION:** Perkins moved, seconded by McGee-Snyder that that the conviction does not have a rational connection to the applicants' ability to practice and that the provisional license be issued. A roll call vote was taken. Voting aye: Voting aye: Atherton, Danforth, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Meyerle, Randall (2). Motion carried.

c. Reinstatements♦ **Erika Kane**

Chiles presented the board with a properly completed application and required supporting documentation, for reinstatement of her Certified Social Worker credential.

➡**MOTION:** McGee-Snyder moved, seconded by Kenney that the board accept the application and request for reinstatement of this certification. A roll call vote was taken. Voting aye: Voting aye: Atherton, Danforth, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (8). Voting nay: none (0). Absent: Meyerle, Randall (2). Motion carried.

♦ **Joan Rice**

Chiles presented the board with a properly completed application and required supporting documentation for reinstatement of her License as a Mental Health Practitioner and Certification as a Professional Counselor.

➡**MOTION:** Prest moved, seconded by Kenney that the board accept the application and request for reinstatement of this license and certification. A roll call vote was taken. Voting aye: Atherton, Kenney, Lorenzen, McGee-Snyder, Myers, Perkins, Prest, (7). Voting nay: none (0). Absent: Meyerle, Randall (2). Abstaining: Danforth, (1). Motion carried.

8. UNFINISHED BUSINESS

None

9. NEW BUSINESS

a. Reports

• AASCB Correspondence

None

• AMFTRB Correspondence

None

• ASWB Correspondence

Randall stated that she attended the ASWB conference and presented a session titled "Best Practices in Writing Disciplinary Decisions"; the presentation was developed with the assistance of Brad Shaff. Randall stated they received excellent reviews and she believes Shaff will be asked to present at the **FARB** Conference. She advised that the next ASWB meeting is scheduled for November.

She further stated that by the next meeting she will have available, copies of standards for electronic practice in any capacity; as they will be available shortly for both public and professional association comment. She stated that they are hoping that these standards will be effective in November 2005.

• Citizen Advocacy Correspondence

None

b. Newsletter – Volume 2

Chiles advised the board that she continues to work on collecting articles for the second volume of the Board Newsletter.

Map: Chiles had provided each member with a map of Mental Health Practitioners, Alcohol and Drug Counselors and Psychologists across the state. She advised that this map is also available on the Credentialing web site.

c. Other

All Board Member Meeting

Chiles reminded the board that the All Board Member Meeting is being held on Friday, June 10th, 2005 at Mahoney State Park. Chiles stated that registration forms will be sent to the board members, next week. Chiles further stated that this meeting will be somewhat different than past meetings, in that it will be a forum on the Uniformed Licensure Law re-write. It's an opportunity for the boards to comment on what they'd like to see changed, whether the board's want more authority than they currently have, etc. She indicated that the intent is to make the ULL, a more generic law that deals mainly with discipline, the renewal and reinstatement processes for every profession. She used the renewal process as an example, stating that one proposal includes the elimination of second notices for renewal.

Randall spoke about a report from the Nebraska State Board of Health, from 2004. She stated that one proposal for the next year is to have a luncheon with all of the Board Chairs and Vice-Chairs.

ASWB New Board Member Training

Randall spoke regarding the new board member training that is being offered through ASWB. It was stated that they allow for the attendance of two board members, per board. Chiles stated, given that this is funded by ASWB, if interested in attending, members could make her own arrangements on-line through ASWB.org. Randall stated that she felt the training is quite worth while.

MFT Supervisor Review Request

Chiles indicated that she has received a request for review of credentials to establish whether or not an individual is an acceptable supervisor for MFT. The board suggested Danforth review the application and provide his recommendation to the Department.

Tom Perkins

Chiles reported that Perkins term will expire November 30, 2005; he will have served on the board for a period of 10 years (2 consecutive 5-year terms, thus can not be reappointed).

9. ADJOURNMENT

There being no further business, the meeting of the Board of Mental Health Practice adjourned at 12:50 P.M.

Respectfully Submitted,

John Atherton, Secretary
Board of Mental Health Practice

**The next board
meeting is scheduled
for September 2, 2005.**

Tape Recorded and Summarized by:
Cindy Kelley, Health Licensing Specialist
Credentialing Division